

FINAL STATEMENT OF REASONS
TITLE 13, DIVISION 1, ARTICLE 4.8
MATURE DRIVER IMPROVEMENT COURSE APPROVAL PROGRAM

1) The Updates to the Initial Statement of Reasons

There are no changes to the Initial Statement of Reasons, which is hereby incorporated by reference, with exception to the following:

Section 346.00

Section 346.00(a) is modified to avoid duplication. The number of minutes required for an initial course is deleted. The number of minutes for an initial course is specified in Vehicle Code section 1675(c).

Section 346.00(b) and subsequent lettering are renumbered. The content of former section 346.00(b) is a subsection of 346.00(a) and not an independent subsection. Therefore, former (b) is modified to (a)(1).

The revision date of the Mature Driver Improvement Course Certification form, OL 1001, has been updated from 4/2007 to 11/2007 to reflect changes to the form.

Former section 346.00(b)(1) is deleted to avoid duplication, since the content of section 346.00(b)(1), related to completion certificates being valid for a period of three years from the date of completion, is specified in Vehicle Code section 1675(d) and (e).

Section 346.00(c) is renumbered to subsection (b), and subsection (d) is deleted due to the renumbering above in (b). The requirement to maintain eligibility for reduced motor vehicle liability insurance is specified in Vehicle Code section 1675(d) and (e). Former subsection (d), relating to course instruction sites, has been renumbered to subsection (c).

Section 1652 is deleted from the Authority section of the Authority and Reference note because it is not a section that requires the department to adopt these regulations. The citation is added to the Reference section because it relates to the submission of forms which must be signed under penalty of perjury.

Section 346.02

The title of section 346.02 is amended to include the word *Course* for clarity.

Section 346.02(a) is modified for clarity. The word *and* has been added and the word *or* has been deleted to change the requirements. The application for a mature driver improvement course must include both an initial and renewal course per Vehicle Code section 1675(a). A course will not be considered for approval unless the provider submits an initial and renewal course outline.

Section 346.02(a) is amended to specify the address location where an application shall be submitted.

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Section 346.02(a)(1) is amended to delete the statement “to the address on the form.” This statement is located in section 346.02(a).

Section 346.02(a)(1)(A) is amended to for clarity and to avoid duplication. The language previously referenced the perjury statement on a form quoting sections of the perjury statement. The content of the language has been rewritten in a more concise manner by referencing Code of Civil Procedure section 2015.5.

Section 346.02(a)(1)(A)(i) is renumbered to (a)(1)(A)1. upon suggestion of the Office of Administrative Law to conform to other sections of the California Code of Regulations.

Section 346.02(a)(3) is amended for clarity and establishes the application fee at five hundred dollars. Vehicle Code section 1677(a) allows the department to collect a fee from course providers “for the approval of the course, but not to exceed the actual cost of approval of the course.” The department’s budget and program personnel have calculated the cost of an application review to be \$597.47 (Attachment A). The department has determined to set the fee at \$500. This constitutes an increase from the former fee of \$100, and no public comment was received during the 15-day comment period.

Section 346.02(b) and (c) are added for clarity. The addition of these two sections are to avoid mixing the application content requirements with other statements relating to providers who are not required to apply and relating to the effect of an approved application.

Section 346.02(c) is added for clarity. This section will ensure providers are aware that a complete application consists of an initial *and* renewal course outlines.

Sections 346.02(b) and (c) are renumbered to subsections (d) and (e). This shift in numbering is due to the addition of the previous two subsections. Former subsections (d), (e) and (f) have been renumbered to (f), (g) and (h), respectively.

Former section 346.02(g) is renumbered to section 346.02(h)(1). This section discusses the surrender of records upon receipt by a course provider of withdrawal of course approval. Given that subsection (h) relates to a course approval being withdrawn when a provider fails to comply with these regulations or Vehicle Code sections 1675, 1676 and 1677, the paragraph relating to the surrender of records is dependent upon subsection (h).

For purposes of clarity, this section is revised to require a provider to surrender all records, as defined in section 346.16, when the provider has received notice of course approval having been withdrawn. Prior to the amendment, this section required records to be surrendered upon notice of disapproval. Since a disapproval is made at the application phase, the provider would not have been issued certificates or have gathered records as described in section 346.16.

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For purposes of non-duplication, this subsection is amended to delete the requirement of the provider to surrender completion certificates to the department when the course approval has been withdrawn. Completion certificates are regarded as records and are required to be returned in section 346.16 of these regulations.

Vehicle Code section 470 is deleted from the Authority section of the Authority and Reference Note because it is not a valid authority. Vehicle Code section 1652 is added to the Reference Note because it relates to forms. The citation of Code of Civil Procedure section 2015.5 is added to the Reference Note.

346.04

During the second 15-day notice period, section 346.04(a) was amended to update the revision date of the Mature Driver Improvement Course Guidelines from 10/2006 to 1/2007. It was subsequently determined that the 1/2007 date was not a valid revision date. October 2006 was the last time a modification was made to this incorporated document. Therefore, the 10/2006 revision date was reinstated, and notice of this change was provide during the third 15-day comment period.

Section 346.04(a)(1) is amended for clarity and to avoid duplication. This section requires the course curriculum to contain comprehensive lesson plans. Prior text further stated the plans were to be “clear, well-organized, and easy to follow.” The curriculum content criteria have been narrowed and terms that may be open to interpretation have been deleted.

Section 346.04(a)(1)(A) is amended for clarity. The word *pertinent* is deleted because it may be subject to varying interpretation.

Section 346.04(a)(2) is amended for clarity. The term *curriculum content* is added to make specific what is required to meet department lesson plan and instruction time frame requirements.

Section 346.04(a)(3) is modified for clarity and to make grammatical changes. The word *physiologic* replaced *physiological*. The word *changes* replaced *problems*.

Section 346.04(c) is amended to avoid duplication. The time requirements are deleted from this section because they are stated in Vehicle Code section 1675(c).

Section 346.04(d)(2) is amended for clarity. The phrase *major subject* is replaced with *mandatory topic*.

Section 346.04(e)(1) is amended to broaden the scope of requirements of material given to course participants. The words *workbooks, or tests regularly used in the course as part of the curriculum* are deleted and will be identified as handout material.

Section 346.04(g) is amended to replace the word *curricula* with *curriculum*.

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Section 346.04(g)(1) is amended for clarity. The words *course* and *DMV-issued* are added when referring to provider identification numbers. This section makes a non-substantive change by replacing the word *curricula* with the word *curriculum*.

Section 346.04(g)(2) is amended for clarity. Quotation marks have been added at the beginning and end of the Legal Notice and Disclaimer.

At the last paragraph of the Legal Notice and Disclaimer, the word *course* is replacing the word *educational* in two places to make the terminology consistent with the existing regulatory proposal. This paragraph also deletes instructions to complete a form found on the department's website and deletes reference to the form. The course participant is asked to simply call the department at the number given to report comments on the course.

Vehicle Code section 1652 is deleted from the Authority section of the Authority and Reference Note because it is not a valid authority. Vehicle Code section 1652 is added to the Reference Note because it relates to forms. Vehicle Code section 1676 is added to the Reference Note because it relates to tuition.

346.06

Section 346.06(a) lists topics to be included in a course curriculum. The topics have been chronologically reorganized for clarity purposes. Some of the topic titles have been rephrased and other topics have been added or deleted. References to *associated with aging* have been deleted from the titles. Section 346.06(a)(1), (2), (3), (4), (5), (9), (10) and (11) has been chronologically reordered.

- Subsection (a)(1) formerly listed two topics (Vision and Hearing) and now lists one topic, Vision Limitations. The second topic, relating to Hearing Limitations, in former (a)(1) has been deleted and added to (a)(2).
- Former Subsection (a)(2), relating to Physical/Physiologic changes, is now (a)(3).
- Former 346.06(a)(3), relating to effects of medication, is now (a)(5).
- Former (a)(4), relating to the effects of alcohol on driving, is now (a)(6).
- A new subsection (a)(4) has been added relating to requirements to issue and refuse a license, and reexamination of licensed drivers.
- Former (a)(5), relating to updates on the rules of the road, is now (a)(7).
- Former subsections (a)(6),(7) and (8), relating to various demands of driving, have been deleted and incorporated in new 346.06(a)(11).
- Subsection (a)(9) was restated in error. No changes have been made to this subsection.
- Subsection (a)(10) has been modified to add Fatigue as a topic.
- Subsection (a)(11) has been renamed *Hazardous Conditions*.
- Former subsections (a)(12), (13) and (14), have been absorbed by subsection (a)(9), relating to Basic Defensive Driving Tactics.

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346.08

Section 346.08(a) is amended for clarity and to reference Vehicle Code section 1676(c) and proposed CCR section 346.14(c) relating to the Mature Driver Improvement Course completion certificate fee.

Section 346.08(b) is amended for clarity by adding the words *course provider* and *department-issued* when requiring advertising to disclose the providers name and provider number.

Section 346.08(d) is amended for clarity. The word *course* is added before the word *provider*. Also the words *or approved* is deleted from this section.

Section 346.08(d)(1) is added to allow course providers to indicate the course is approved by the department in their advertising. This addition is in response to comments from industry representatives who want their program advertised as “approved” by the department.

Vehicle Code section 1677 is added to the Authority section of the Authority and Reference Note. Vehicle Code sections 1676 and 1677 are added to the Reference Note because they relate to Mature Driver Improvement Course tuition and course providers.

346.10

Section 346.10(a)(2) is amended to delete the words, “including change of corporate officers, if a corporation.” The form OL 1002 requires the name of the individual, partners, corporation or association to be listed on the form, but does not require a corporate officer to be listed, therefore, there is no information upon which to base the requirement of reporting changes to corporate officers.

Section 346.10(b) is added to ensure course providers give the department 10 days notice before conducting renewal courses. The provider must already have a department-approved initial and renewal course and the notification must be given 10 business days prior to the commencement of the first renewal course offered. Section 346.10(b)(1) is added to require the course provider to submit a copy of the renewal course curriculum. This is necessary to give the department time to verify the approved renewal course.

Section 346.10(c) is renumbered from subsection (b) and former subsection (c) is renumbered (d).

Vehicle Code section 1652 is deleted from the Authority section of the Authority and Reference Note and added to the Reference section because it relates to forms.

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346.12

Section 346.12(a) and (c) are amended to update the revision date of the Mature Driver Improvement Course Certificate, form OL 1001, from 4/2007 to 11/2007.

Section 346.12(d) is amended for clarity and requires the course provider to issue a duplicate completion certificate to the participant at his or her request.

Section 346.12(d)(1) is amended to make a non-substantive grammatical change by substituting the word *the* with *a*.

Vehicle Code sections 470 and 1652 are deleted from the Authority section of the Authority and Reference Note. Section 1652 is added to the Reference Note because it relates to forms.

346.14

Section 346.14(a) is amended to update the revision date of the Mature Driver Improvement Course Certificate, form OL 1001, from 4/2007 to 11/2007.

Section 346.14(b) is amended to update the revision date of form OL 1005: Mature Driver Improvement Course Certificate, OL 1001 Order Form, from 1/2007 to 2/2007. The amendment also makes a correction to include the entire form name.

Section 346.14(c) requires the department to charge a fee of one dollar per completion certificate. In its review, the OAL concluded the department did not adequately demonstrate the cost of the completion certificate is consistent with Vehicle Code section 1676(c), which states:

“The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering the mature driver improvement program, for evaluating the program, and for any other activities deemed necessary by the department to assure high quality education for participants of the program.”

The OAL advised the department to supply documentation supporting the fee for the completion certificate. The department identified a total cost of \$597.47 (Attachment A) to review each program package. The review ensures the course content and method of instruction meet the department’s standards and guidelines. Since the department receives no more than two or three applications per year, the actual cost of administering the program is relatively low. After personnel costs to produce and distribute the certificate, as well as the cost of shipping the completion certificate (Attachment B), the residual amount is sufficient to support the program (Attachment C). The department confirms that the fee amount of one dollar per completion certificate meets the legal requirements of Vehicle Code section 1676(c).

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Section 346.14(d) is amended for clarity by deleting the words *corporation or association* when identifying individuals authorized to purchase completion certificates. The words *principal corporate officer* is substituted. This section is also amended to require the individual purchasing completion certificates to be affiliated with the course provider.

Section 346.14(f) is deleted because it is unnecessary. Section 346.14(c) provides that the department shall charge a fee of one dollar per completion certificate issued to the course provider and Vehicle Code section 1676(c) already provides that a course provider shall not charge a fee in excess of the fee charged by the department for furnishing a certificate.

Section 346.14(f) is renumbered from (g) and former subsection (h) is renumbered to (g). The renumbering is due to the repeal of the former subsection (f).

Section 346.14(g), formerly subsection (h), is amended to require a provider to issue a receipt when the participant pays the tuition in cash. This amendment is in response to a comment received from the Auto Club of Southern California describing the undue burden of issuing a receipt to every participant. The Auto Club points out that when tuition is paid by credit card or electronic check, the credit card statement or bank statement provides a record of the transaction. This section is also amended to allow the participant to use his or her copy of the completion certificate in lieu of a receipt provided the certificate is issued the same day as payment is made. This amendment is intended to ease the burden on the course provider.

Vehicle Code sections 470, defining a person, and 1652, relating to forms, are deleted from the Authority section and added to the Reference section in the Authority and Reference Note.

346.16

Section 346.16(a) is amended for clarity. Prior versions of this section established a record retention period of three years. To ensure vital information is retained, the department has amended this section to establish two separate retention periods.

A copy of the Application for Approval of Mature Driver Improvement Course, form OL 1002 will be retained for the duration of initial and renewal classes offered by a provider plus three years. The course provider business name and the provider identification number will also be retained for the duration of initial and renewal classes plus three years.

Class participant, course and completion information will be retained for a minimum of three years.

Section 346.16(a) and its subsections are renumbered for better format.

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Section 346.16(a) is amended to reflect the revision date of the Application for Approval of Mature Driver Improvement Course, form OL 1002 (Rev. 1/2007).

Section 346.16(a)(2)(A) is amended for clarity and requires the true, full name of the course participant to be retained.

Section 346.16(a)(2)(D) is amended to make a grammatical correction by replacing the words *in which* with *where*.

Section 346.16(a)(2)(G) is amended to avoid duplication. The words *400 minute* and *240 minute* have been deleted. Because statute provides the course length, it is not necessary to continually state the course length throughout the regulations. Instead, the word *renewal* had been added to ensure both the initial course and renewal course are addressed in this section.

Section 346.16(b) is amended to delete the language protecting participant information from being disclosed pursuant to California Civil Code section 1798.24. While the participant's information will be kept confidential, this information may not be protected from disclosure pursuant to California Civil Code section 1798.24, therefore, upon the advice of the OAL, this language is being deleted.

Section 346.16(c) is amended to add the word *course* as it relates to course approval being withdrawn. This section is also amended to update the citation of previous subsections. These amendments are made for clarity.

Vehicle Code section 1677, relating to the withdrawal of course approval, is added to the Reference section of the Authority and Reference Note, while Civil Code section 1798.24, relating to conditions of disclosure, is deleted from the Reference Note.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action adopting Sections 346.00, 346.02, 346.04, 346.06, 346.08, 346.10, 346.12, 346.14, and 346.16 in Article 4.8, Chapter 1, Division 1, of Title 13, California Code of Regulations, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other nondiscretionary cost or savings to local agencies, and (4) no costs or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on April 28, 2007, and made available to the public from April 28, 2007 through June 11, 2007. Three comments were received on the regulatory proposal.

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The first comment dated May 9, 2007, received by letter from Tim Chang, Legislative Counsel for the Automobile Club of Southern California regarding proposed Sections 346.14(h) and 346.16.

The second comment dated May 24, 2007, received by email from Rick Hernandez, CEO for I Drive Safely regarding proposed Section 346.08(d).

The third comment dated June 8, 2007, and received by fax on June 11, 2007, from Nina Weiler, representing the American Association of Retired Persons (AARP) regarding proposed Sections 346.04(b)(2) and 346.04(d)(4).

As a result of comments received, changes were made to proposed regulatory text and a 15-Day Notice of Modification to Proposed Regulations was noticed.

Commenter 1, Part 1: Addressed proposed regulatory Section 346.14(h), which specifies receipt requirements. Part 1 states with the exception to cash payments, receipts are unnecessary and unduly burdensome on course providers since most participants enroll over the phone and pay with a credit card or by electronic check. Each participant's record of the transaction appears on the participants' credit card statement or bank statement, and serves as a receipt.

The Department Response's: The department concurs. The department has modified Section 346.14 to specify a receipt is required only when a payment is made in cash and allows a participant to use his or her copy of the completion certificate in lieu of a receipt, provided the certificate is issued the same day the fee is paid.

Commenter 1, Part 2: Addressed proposed regulatory Section 346.16, which specifies business record requirements. Part 2 seeks clarification regarding the format of business records, specifically, whether the business record contents must be stored in a database format.

The Department Response: Proposed Section 346.16 requires a course provider to maintain business records, including a record of every course conducted, for a period of three years from the date of course instruction. Proposed Section 346.14(a) delineates the business record contents to be retained. The contents listed in proposed Section 346.14(a)(1) and (2) do not have to be retained in a database format. The records can be retained in the provider's preferred storage method.

Commenter 2: Addressed proposed regulatory section 346.08(d) which recommended that the department revise the terminology "approved by the department" when referred to a mature driver course status with the department.

The Department's Response: Section 346.08(d)(1) has been added to allow course provider to advertise a course as "approved by the department."

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Commenter 3: Addressed proposed regulatory Sections 346.04(b)(2) and 346.04(d)(4) which specify audio visual requirements for classroom courses. Commenter 3 seeks clarification regarding the application of these sections to online courses.

The Department's Response: Sections 346.04(b)(2) and 346.04(d)(4) do not apply to online courses.

No public comments were received regarding the modified version of the regulation text during the first 15-day public comment period, the second 15-day public comment period, or the third 15-day public comment period.

4) Document(s) Incorporated by Reference

- The Mature Driver Improvement Course Certificate, OL 1001 (Rev. 11/2007) is incorporated by reference in Section 346.00(a)(1).
- The Application for Approval of Mature Driver Improvement Course, OL 1002 (Rev. 1/2007) is incorporated by reference in Section 346.02(a)(1).
- The Mature Driver Improvement Course Certificate, OL 1001, Order Form, OL 1005 (Rev. 2/2007) is incorporated by reference in Section 346.14(b).
- The Mature Driver Improvement Course Guidelines, OL 1008 (Rev. 10/2006) is incorporated by reference in Section 346.04(a).

These forms are incorporated by reference since it is impractical and cumbersome to publish these forms in the California Code of Regulations and the forms are readily available from the department. The original notice and the notices of modification stated the forms were made available upon request directly from the department.

5) Determination of Alternatives

No reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. During the rulemaking process no alternative that would lessen the adverse economic impact on small business was submitted.